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324264

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/324,264	10/17/94	KALBERER	H CERA221
		33M1/0426	ISABELLA EXAMINER
			ART UNIT PAPER NUMBER 3
			3308
			DATE MAILED: 04/26/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined.  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.  
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.  
3.  Notice of Art Cited by Applicant, PTO-1449.  
4.  Notice of Informal Patent Application, PTO-152.  
5.  Information on How to Effect Drawing Changes, PTO-1474.  
6.  \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1.  Claims 1-5 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1-5 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other \_\_\_\_\_

**EXAMINER'S ACTION**

Serial Number: 324264

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Art Unit: 3308

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-4 are rejected under 35 U.S.C. § 102(e) as being anticipated by Noiles, et al.

Noiles discloses a hip joint socket including an outer metal shell and an inner antifriction liner removably fixed to the shell by means of a taper lock having a lock angle within the range as claimed. See column 3, lines 5-17.

Claim 2, examiner is interpreting "about 18 degrees" as falling within the range of about 6 to 17 degrees.

Claims 3 and 4, see diametrical openings 24.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3308

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claim 5 is rejected under 35 U.S.C. § 103 as being unpatentable over Noiles, et al as applied to claim 1 above, and further in view of Cremascoli.

The use of ceramic as the antifriction component in a hip joint prosthesis is taught by Cremascoli. To use the ceramic in place of a metal component for better wear characteristics would have been obvious from Cremascoli.

Any inquiry concerning this communication should be directed to DAVID J ISABELLA at telephone number (703)308-3060.



**DAVID J ISABELLA**  
**PRIMARY EXAMINER**

DJI  
April 12, 1995